IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE A.K.BASHEER

THURSDAY, THE 28TH JUNE 2007 / 7TH ASHADHA 1929

WP(C).No. 7841 of 2006(H)

PETITIONER:

RADHAKRISHNAN.G. S/O.KALLIL GOPI,
KORAKKAD HOUSE, KARINGARAPPULLY POST,
PALAKKAD 678 559.

BY ADV. SRI.C.S.MANU
SRI.ANOOP JOSEPH

RESPONDENTS:
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1. STATE OF KERALA, REPRESENTED BY THE SECRETARY TO GOVERNMENT OF KERALA, HIGHER EDUCATION DEPARTMENT, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM.

2. THE KERALA STATE PUBLIC COMMISSION, REPRESENTED BY ITS CHAIRMAN, PATTOM, THIRUVANANTHAPURAM.

BY SR. GOVT. PLEADER. SRI. T.T. MUHAMOODADV.
SRI.P.C.SASIDHARAN, SC, KPSC

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 28/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC NO. 7841/06

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1. COPY OF THE MARKLIST OF THE POST GRADUATE DEGREE OF THE PETITIONER

EXT.P2. COPY OF THE NATIONAL ELIGIBILITY CERTIFICATE ISSUED TO THE PETITIONER

EXT.P3. COPY OF THE NOTIFICATION DT. 17.2.04 ISSUED BY THE RESPONDENT CALLING FOR LECTURERS

EXT.P4. COPY OF THE INTIMATION DT. 27.9.05 ISSUED TO THE PETITIONER BY THE 2ND RESPONDENT

EXT.P5. COPY OF THE U.G.C. NOTIFICATION ON REVISION OF PAY SCALES MINIMUM QUALIFICATION FOR APPOINTMENT OF TEACHERS

EXT.P6. COPY OF THE GOVT. ORDER BEARING NO. G.O. (P) NO. 171/99/H.Edn. DT. 21.12.99

EXT.P7. COPY OF THE SPECIAL RULES FOR THE KERALA COLLEGIATE EDUCATION SERVICE

EXT.P8. COPY OF THE NOTIFICATION DT. 14.12.05 ISSUED BY THE 2ND RESPONDENT CALLING FOR APPLICATIONS FROM CANDIDATES FOR THE POST OF LECTURER IN LAW.

/TRUE COPY/

PA TO JUDGE.

A.K. BASHEER, J.

W.P.(C). NO. 7841 OF 2006

Dated this the 28th day of June, 2007

J U D G M E N T

Petitioner claims that he had responded to Ext.P3 notification issued by the Kerala Public Service Commission inviting applications from eligible candidates for appointment to the post of Lecturer in Commerce.

2. One of the qualifications prescribed for the post is Master's Degree in the subject concerned with atleast 55% marks, or its equivalent. Admittedly petitioner has got only 54.5% marks. According to the petitioner, he belongs to Cheruman Community, which comes under Scheduled Castes/Scheduled Tribes category. He contends that SC/ST candidates like the petitioner are entitled to get a relaxation of 5% marks. He relies on Clause 3.4.0 in Ext.P5, which was issued by the University Grants Commission on December 24, 1998.

3. But it is beyond controversy that the Commission has only adopted the qualifications as prescribed in the Special Rules, a copy of which is on record as Ext.P7. Since the petitioner did not have the requisite qualification as prescribed under Special Rules, he cannot be heard to say that Commission was bound to consider his application.

4. It may be true that in Clause 3.4.0 of Ext.P5 the U.G.C had indicated that a relaxation of 5% may be provided from 55% to 50% of the marks at the master's level for the SC/ST category. It is pertinent to note

that in the previous clause in Ext.P5 the minimum requirements of a good academic record, 55% of the marks at the master's level and qualifying in the National Eligibility Test, or an accredited test, shall remain for the appointment of Lecturers.

5. Specific qualifications for the post of lecturer etc. have been incorporated in the Special Rules with a view to maintain a particular standard in institutions which impart higher education. For this purpose it has to be ensured that only qualified hands with good academic record are appointed to man the post. Therefore it cannot be said that prescription of a particular percentage of mark in the subject concerned is illegal or arbitrary. The prescription contained in Special Rules should prevail. For that reason alone, the challenge against the relevant Clause in the special rules is liable to be repelled. I do so. There is no merit in the writ petition.

It is accordingly dismissed.

A.K. BASHEER, JUDGE

vps

A.K. BASHEER, JUDGE

OP NO.20954/00

JUDGMENT

1ST MARCH, 2007